

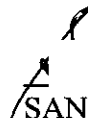
before September 18, 2009, and stated that he would recommend dismissal for failure to prosecute if the status report was not timely filed.

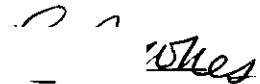
Plaintiff's counsel never filed a status report. On October 29, 2009, Judge Gold issued a report and recommendation (the "R&R"), recounting the history of this case and recommending "that this action be dismissed unless, within the time for filing objections to this recommendation, plaintiff provides the court with proof of service on one or more defendants and with the report required by [the] Order of September 10." R&R at 1. The R&R specified that any objections had to be electronically filed "no later than November 16, 2009." *Id.*

On November 12, 2009, plaintiff electronically filed affidavits of service, indicating that defendants Classic Closeouts, LLC, and Jonathan Brook had both been served with a summons and complaint in July 2009. Plaintiff simultaneously filed an objection to the R&R, explaining that the failure to appear at the September 1 conference and to respond to the September 10 order was due to confusion between the two law firms involved in plaintiff's representation. Although plaintiff's objection is not in the form of a status report, it implies that the two defendants who have been served have not yet answered, and expressly requests permission to seek default judgments against them.

Since plaintiff has substantially complied with the requirements set forth in the R&R, this Court will not dismiss this action for failure to prosecute. Plaintiff's request for permission to move for a default judgment is respectfully referred to Judge Gold.

SO ORDERED.


SANDRA L. TOWNES
United States District Judge



Dated: November 13, 2009
Brooklyn, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITRANS CONSOLIDATED, INC.,

Plaintiff,

—against—

CLASSIC CLOSEOUTS, LLC, d/b/a
CLASSICCLOSEOUTS.COM; IVAL GROUP, LLC.;
DANIEL J. GREENBERG and JONATHAN BROOK,

Defendants.
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MEMORANDUM AND ORDER

09-CV-2098 (SLT) (SMG)

TOWNES, United States District Judge:

Plaintiff Unitrans Consolidated, Inc., commenced this admiralty and maritime action on May 15, 2009, at which time it was randomly assigned to this Court and to Chief Magistrate Judge Steven M. Gold (“Judge Gold”). On May 19, 2009, Judge Gold entered an electronic order, scheduling an initial conference for September 1, 2009. That order directed plaintiff’s counsel, *inter alia*, to notify the magistrate judge’s chambers at least two days before the conference if any answers had not been filed by then. In addition, the scheduling order advised the parties that requests for adjournments would not be considered unless made in accordance with Judge Gold’s Individual Motion Practices, which require that such requests be made in writing and in a specific manner no less than 48 hours before the conference date. *See* Order dated May 19, 2009, at 1; Individual Practices of Chief Magistrate Judge Steven M. Gold at ¶I.D.

Plaintiff’s counsel neither alerted the magistrate judge to defendants’ failure to file responsive pleadings nor requested an adjournment, but simply failed to appear at the September 1, 2009, conference. In an order dated September 10, 2009, Judge Gold not only noted counsels’ absence but also noted that no affidavits of service or answers had been filed with the Court. Accordingly, Judge Gold ordered that plaintiff’s counsel electronically file a status report on or